

103D CONGRESS
1ST SESSION

S. 1091

To control international organized crime.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 1993

Mr. ROTH introduced the following bill; which was read twice and referred to
the Committee on Foreign Relations

A BILL

To control international organized crime.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “International Orga-
5 nized Crime Control Act of 1993”.

6 **SEC. 2. INTERNATIONAL ORGANIZED CRIME CONTROL.**

7 Part I of the Foreign Assistance Act of 1961 is
8 amended by inserting after chapter 7 the following new
9 chapter:

1 **“CHAPTER 7A—INTERNATIONAL**
2 **ORGANIZED CRIME CONTROL**

3 **“SEC. 471. INTERNATIONAL ORGANIZED CRIME CONTROL.**

4 “(a) STATEMENT OF CONGRESSIONAL PURPOSES
5 AND GOALS.—(1) It is the sense of the Congress that—

6 “(A) suppression of international organized
7 crime is an important foreign policy objective of the
8 United States; and

9 “(B) effective international cooperation is nec-
10 essary to control the international activities con-
11 ducted by organized criminal groups.

12 “(2) In order to promote such cooperation, the Presi-
13 dent is authorized to conclude agreements with other
14 countries to facilitate control of the international oper-
15 ations of organized criminal groups.

16 “(3) In order to promote international cooperation in
17 combating international organized crime control, it shall
18 be the policy of the United States to use its voice and
19 vote in multilateral development banks to promote the de-
20 velopment and implementation of programs for the reduc-
21 tion and eventual eradication of international organized
22 crime.

23 “(4) Notwithstanding any other provision of law, the
24 President is authorized to furnish assistance to any coun-
25 try or international organization, or such terms and condi-

1 tions as he may determine, for the control of international
2 organized crime.

3 “(b) MID-YEAR REPORT.—Not later than September
4 1 of each year, the President shall transmit to the Speaker
5 of the House of Representatives, and to the Committee
6 on Foreign Relations of the Senate, a complete and de-
7 tailed mid-year report on the activities and operations car-
8 ried out under this chapter before such date. Such mid-
9 year report shall include, but not be limited to, the status
10 of each agreement concluded before such date with other
11 countries to carry out the purposes of this chapter.

12 “(c) PARTICIPATION IN FOREIGN POLICE AC-
13 TIONS.—

14 “(1) PROHIBITION ON EFFECTING AN AR-
15 REST.—No officer or employee of the United States
16 may directly effect an arrest in any foreign country
17 as part of any foreign police action with respect to
18 efforts to control international organized crime, not-
19 withstanding any other provision of law.

20 “(2) PARTICIPATION IN ARREST ACTIONS.—
21 Paragraph (1) does not prohibit an officer or em-
22 ployee of the United States, with the approval of the
23 United States chief of mission, from being present
24 when foreign officers are effecting an arrest or from
25 assisting foreign officers who are effecting an arrest.

1 “(3) EXCEPTION FOR EXIGENT, THREATENING
2 CIRCUMSTANCES.—Paragraph (1) does not prohibit
3 an officer or employee from taking direct action to
4 protect life or safety if exigent circumstances arise
5 which are unanticipated and which pose an imme-
6 diate threat to United States officers or employees,
7 officers or employees of a foreign government, or
8 members of the public.

9 “(4) EXCEPTION FOR MARITIME LAW ENFORCE-
10 MENT.—With the agreement of a foreign country,
11 paragraph (1) does not apply with respect to mari-
12 time law enforcement operations in the territorial
13 sea of that country.

14 “(5) INTERROGATIONS.—No officer or employee
15 of the United States may interrogate or be present
16 during the interrogation of any United States person
17 arrested in any foreign country with respect to ef-
18 forts to control international organized crime with-
19 out the written consent of such person.

20 “(6) EXCEPTION FOR STATUS OF FORCES AR-
21 RANGEMENTS.—This subsection does not apply to
22 the activities of the United States Armed Forces in
23 carrying out their responsibilities under applicable
24 Status of Forces Arrangements.

1 “(d) REPORTING REQUIREMENTS.—(1) Not later
2 than March 1 of each year, the President shall transmit
3 to the Speaker of the House of Representatives, and to
4 the Committee on Foreign Relations of the Senate, a re-
5 port on United States policy to control international orga-
6 nized crime to establish and encourage an international
7 strategy. This international strategy should also be de-
8 signed to prosecute and eliminate organized criminal
9 groups involved in international criminal activity, includ-
10 ing, but not limited to, narcotics trafficking, money laun-
11 dering, alien smuggling, immigration fraud, counterfeit-
12 ing, extortion, robbery, bribery, theft, kidnaping or
13 murder.

14 “(2)(A) Each report pursuant to this subsection shall
15 describe the policies adopted, agreements concluded, and
16 programs implemented by the Department of State in pur-
17 suit of its delegated responsibilities for international orga-
18 nized crime control, including policy development, bilateral
19 and multilateral funding and other support for inter-
20 national narcotics control projects, representations of the
21 United States Government to international organizations
22 and agencies concerned with international organized crime
23 control, training of foreign enforcement personnel, coordi-
24 nation of the international organized crime control activi-

1 ties of United States Government agencies, and technical
2 assistance.

3 “(B) Each such report shall also describe the activi-
4 ties of the United States in international financial institu-
5 tions to combat the entry of international organized crime
6 into the United States.

7 “(C) Each such report shall describe the activities for
8 the fiscal year just ended, for the current fiscal year, and
9 for the next fiscal year.

10 “(3) Each such report shall identify those countries
11 in which organized criminal groups with operations signifi-
12 cantly affecting the United States are located or have a
13 significant presence. For each such country, each report
14 shall include the following:

15 “(A) A detailed status report, with such infor-
16 mation as can be reliably obtained, on the organized
17 criminal groups located in such country which have
18 some membership in or extension of operations to
19 the United States, estimating the size of group
20 membership in such country and the United States
21 and discussing the criminal activities being per-
22 petrated in such country and the United States.

23 “(B) A description of the assistance under part
24 I of this Act and the other kinds of United States
25 assistance which such country received in the pre-

1 ceding fiscal year, which are planned for such coun-
2 try for the current fiscal year, and which are pro-
3 posed for such country for the next fiscal year, with
4 an analysis of the impact that the furnishing of each
5 such kind of assistance has had or is expected to
6 have on the control and prosecution of organized
7 criminal groups with operations significantly affect-
8 ing the United States.

9 “(C) A description of the plans, programs, and
10 timetables adopted by such country for the progres-
11 sive prosecution and elimination of organized crimi-
12 nal groups with operations significantly affecting the
13 United States.

14 “(D) A discussion of the extent to which such
15 country has cooperated with the United States orga-
16 nized crime control efforts through the extradition
17 or prosecution of international organized criminals,
18 and, where appropriate, a description of the status
19 of negotiations with such country to negotiate a new
20 or updated extradition treaty relating to inter-
21 national organized crime offenses.

22 “(4) Each report pursuant to this subsection shall de-
23 scribe the involvement of any foreign government (includ-
24 ing any Communist government) in international orga-

1 nized criminal activities during the preceding fiscal year,
2 including—

3 “(A) any direct or indirect involvement of such
4 government (or any official thereof) in international
5 organized criminal activity, including, but not lim-
6 ited to, narcotics trafficking, money laundering,
7 alien smuggling, immigration fraud, counterfeiting,
8 extortion, robbery, bribery, theft, kidnaping, or mur-
9 der; and

10 “(B) any other activities of such government
11 (or any official thereof) which have facilitated orga-
12 nized criminal activity.

13 “(5) Each report pursuant to this subsection shall in-
14 clude specific comments and recommendations by appro-
15 priate Federal agencies involved in organized crime con-
16 trol, including the United States Customs Service, the
17 Drug Enforcement Administration, the Federal Bureau of
18 Investigation and the Immigration and Naturalization
19 Service, with respect to the degree to which countries list-
20 ed in the report have cooperated fully with such agencies
21 during the preceding year as described in subsection (h).

22 “(6) Each report pursuant to this subsection shall de-
23 scribe the United States assistance for the preceding fiscal
24 year which was denied, pursuant to subsection (h), to each
25 country in which organized criminal groups with oper-

1 ations significantly affecting the United States are located
2 or have a significant presence.

3 “(e) APPROPRIATE CONSULTATIONS.—As soon as
4 possible after the transmittal of the report required by
5 subsection (d), the designated representatives of the Presi-
6 dent shall initiate appropriate consultations with members
7 of the Committee on Foreign Relations of the Senate and
8 members of the Committee on Foreign Affairs of the
9 House of Representatives. Such consultations shall include
10 in-person discussions by designated representatives of the
11 President (including the Assistant Secretary of State for
12 International Narcotics Control and appropriate rep-
13 resentatives of the Department of Health and Human
14 Services, the Department of the Treasury, the Depart-
15 ment of Defense, the Department of Justice, and the
16 Agency for International Development to review the world-
17 wide organized crime situation and the role that United
18 States assistance to major organized crime source coun-
19 tries, and United States contributions to international fi-
20 nancial institutions, have in combating international orga-
21 nized crime affecting the United States. Such consultation
22 shall include, with respect to each organized crime source
23 country for which the President is proposing to furnish
24 United States assistance for the next fiscal year, the fur-
25 nishing of—

1 “(1) a description of the nature of the orga-
2 nized crime problem, including the names of signifi-
3 cant criminal groups and individuals involved in or-
4 ganized crime activity affecting the United States;
5 and

6 “(2) an analysis of the climatic, geographic, po-
7 litical, economic, legal, and social factors that affect
8 the organized crime problem.

9 The chairman of the Committee on Foreign Relations and
10 the chairman of the Committee on Foreign Affairs shall
11 each cause the substance of each consultation to be print-
12 ed in the Congressional Record.

13 “(f) COMMITTEE HEARINGS.—After consultations
14 have been initiated pursuant to subsection (d), the Com-
15 mittee on Foreign Relations and the Committee on For-
16 eign Affairs should hold a hearing to review the report
17 submitted pursuant to subsection (d). The hearing shall
18 be open to the public unless the committee determines,
19 in accordance with the rules of its House, that the hearing
20 should be closed to the public.

21 “(g) ANNUAL CERTIFICATION PROCEDURES.—

22 “(1) WITHHOLDING OF BILATERAL ASSISTANCE
23 AND OPPOSITION TO MULTILATERAL DEVELOPMENT
24 ASSISTANCE.—(A) Fifty percent of the United
25 States assistance allocated each fiscal year in the re-

1 port required by section 653(a) for each major orga-
2 nized crime source country shall be withheld from
3 obligation and expenditure, except as provided in
4 paragraph (2).

5 “(B) The Secretary of the Treasury shall in-
6 struct the United States Executive Director of the
7 International Bank for Reconstruction and Develop-
8 ment, the United States Executive Director of the
9 International Development Association, the United
10 States Executive Director of the Inter-American De-
11 velopment Bank, and the United States Executive
12 Director of the Asian Development Bank to vote, on
13 and after March 1 of each year, against any loan or
14 other utilization of the funds of their respective in-
15 stitution to or for any major organized crime source
16 country, except as provided in paragraph (2).

17 “(2) CERTIFICATION PROCEDURE.—(A) Subject
18 to paragraph (4), the assistance withheld from a
19 country pursuant to paragraph (1)(A) may be obli-
20 gated and expended, and the requirement of para-
21 graph (1)(B) to vote against multilateral develop-
22 ment bank assistance to a country shall not apply,
23 if the President determines and certifies to the Con-
24 gress, at the time of the submission of the report re-
25 quired by subsection (d), that—

1 “(i) during the previous year the country
2 has cooperated fully with the United States, or
3 has taken adequate steps on its own—

4 “(I) in satisfying the goals agreed to
5 in an applicable bilateral agreement or a
6 multilateral agreement which achieves the
7 objectives of subparagraph (B);

8 “(II) in satisfying the requirements
9 for certification with regard to inter-
10 national narcotics control under section
11 481(h)(2) of this Act;

12 “(III) in preventing and punishing the
13 laundering in that country of profits from
14 international organized crime; and

15 “(IV) in preventing and punishing
16 bribery and other forms of public corrup-
17 tion which facilitate international orga-
18 nized crime, or which discourage the inves-
19 tigation and prosecution of such acts; or

20 “(ii) for a country that would not other-
21 wise qualify for certification under clause (i),
22 the vital national interests of the United States
23 require that the assistance withheld pursuant to
24 paragraph (1)(A) be provided and that the
25 United States not vote against multilateral de-

1 velopment bank assistance for that country pur-
2 suant to paragraph (1)(B).

3 “(B) A bilateral agreement referred to in sub-
4 paragraph (A)(i)(I) is an agreement between the
5 United States and a foreign country in which the
6 foreign country agrees to take specific activities, in-
7 cluding, where applicable, efforts to—

8 “(i) increase cooperation with United
9 States law enforcement officials; and

10 “(ii) where applicable, increase participa-
11 tion in extradition treaties, mutual legal assist-
12 ance provisions directed at money laundering,
13 sharing of evidence, and other initiatives for co-
14 operative law enforcement.

15 “(C) A country which in the previous year was
16 designated as a major organized crime source coun-
17 try may not be determined to be cooperating fully
18 under subparagraph (A)(i) unless it has in place a
19 bilateral agreement with the United States or a mul-
20 tilateral agreement which achieves the objectives of
21 subparagraph (B).

22 “(D) If the President makes a certification with
23 respect to a country pursuant to subparagraph
24 (A)(ii), he shall include in such certification—

1 “(i) a full and complete description of the
2 vital national interests placed at risk if United
3 States bilateral assistance to that country is
4 terminated pursuant to this subsection and
5 multilateral development bank assistance is not
6 provided to such country; and

7 “(ii) a statement weighing the risk de-
8 scribed in clause (i) against the risks posed to
9 the vital national interests of the United States
10 by the failure of such country to cooperate fully
11 with the United States in combating inter-
12 national organized crime or to take adequate
13 steps to combat organized crime on its own.

14 “(3) MATTERS TO BE CONSIDERED.—In deter-
15 mining whether to make the certification required by
16 paragraph (2) with respect to a country, the Presi-
17 dent shall consider the following:

18 “(A) Have the actions of the government
19 of that country resulted in the maximum reduc-
20 tions in international organized crime achiev-
21 able? In the case of a major organized crime
22 source country, the President shall give fore-
23 most consideration, in determining whether to
24 make the determination required by paragraph
25 (2), to whether the government of that country

1 has taken actions which have resulted in such
2 reductions.

3 “(B) Has that government taken the legal
4 and law enforcement measures to enforce in its
5 territory, to the maximum extent possible, the
6 elimination of international organized crime?

7 “(C) Has that government taken the legal
8 and law enforcement steps necessary to elimi-
9 nate, to the maximum extent possible, the laun-
10 dering in that country of the profits of inter-
11 national organized crime, as evidenced by—

12 “(i) the enactment and enforcement
13 by that government of laws prohibiting
14 such conduct,

15 “(ii) that government entering into,
16 and cooperating under the terms of, mu-
17 tual legal assistance agreements with the
18 United States governing (but not limited
19 to) money laundering, and

20 “(iii) the degree to which that govern-
21 ment otherwise cooperates with United
22 States law enforcement authorities on anti-
23 money laundering efforts?

24 “(D) Has that government taken the legal
25 and law enforcement steps necessary to elimi-

1 nate, to the maximum extent possible, bribery
2 and other forms of public corruption, which fa-
3 cilitate international organized crime, or which
4 discourage the investigation and prosecution of
5 such acts, as evidenced by the enactment and
6 enforcement of laws prohibiting such conduct?

7 “(E) Has that government, as a matter of
8 government policy, encouraged or facilitated
9 international organized crime?

10 “(F) Does any senior official of that gov-
11 ernment engage in, encourage, or facilitate
12 international organized crime?

13 “(G) Has that government investigated ag-
14 gressively all cases in which any member of an
15 agency of the United States Government en-
16 gaged in enforcement activities against inter-
17 national organized crime, has been the victim of
18 acts or threats of violence, inflicted by or with
19 the complicity of any law enforcement or other
20 officer of such country or any political subdivi-
21 sion thereof, and energetically sought to bring
22 the perpetrators of such offense or offenses to
23 justice?

24 “(H) Having been requested to do so by
25 the United States Government, does that gov-

1 ernment fail to provide reasonable cooperation
2 to lawful activities of United States enforce-
3 ment agents against international organized
4 crime?

5 “(I) Has that government made necessary
6 changes in legal codes in order to enable law
7 enforcement officials to move more effectively
8 against international organized criminals such
9 as new conspiracy laws and new asset seizure
10 laws?

11 “(J) Has that government expeditiously
12 processed United States extradition requests re-
13 lating to international organized criminals?

14 “(K) Has that government refused to pro-
15 tect or give haven to any known international
16 organized criminal, and has it expeditiously
17 processed extradition requests relating to inter-
18 national organized criminals made by other
19 countries?

20 “(4) CONGRESSIONAL REVIEW.—Paragraph (1)
21 shall apply without regard to paragraph (2) if, with-
22 in 45 days of continuous session (within the mean-
23 ing of section 601(b)(1) of the International Secu-
24 rity Assistance and Arms Export Control Act of
25 1976) after receipt of a certification under para-

1 graph (2), the Congress enacts a joint resolution dis-
2 approving the determination of the President con-
3 tained in such certification.

4 “(5) DENIAL OF ASSISTANCE FOR COUNTRIES
5 DECERTIFIED.—If the President does not make a
6 certification under paragraph (2) with respect to a
7 country or the Congress enacts a joint resolution
8 disapproving such certification, then until such time
9 as the conditions specified in paragraph (6)(A) are
10 satisfied—

11 “(A) funds may not be obligated for Unit-
12 ed States assistance for that country, and funds
13 previously obligated for United States assist-
14 ance for that country may not be expended for
15 the purpose of providing assistance for that
16 country; and

17 “(B) the requirement to vote against mul-
18 tilateral development bank assistance pursuant
19 to paragraph (1)(B) shall apply with respect to
20 that country, without regard to the date speci-
21 fied in that paragraph.

22 “(6) RECERTIFICATION.—(A) Paragraph (5)
23 shall apply to a country until—

24 “(i) the President makes a certification
25 under paragraph (2) with respect to that coun-

1 try, and the Congress does not enact a joint
2 resolution under paragraph (4) disapproving
3 the determination of the President contained in
4 that certification; or

5 “(ii) the President submits at any other
6 time a certification of the matters described in
7 paragraph (2) with respect to such country, and
8 the Congress enacts a joint resolution approving
9 the determination of the President contained in
10 that certification.

11 “(B)(i) Any joint resolution under this sub-
12 section shall be considered in the Senate in accord-
13 ance with the provisions of section 601(b) of the
14 International Security Assistance and Arms Export
15 Control Act of 1976.

16 “(ii) For the purpose of expediting the consid-
17 eration and enactment of joint resolutions under this
18 subsection, a motion to proceed to the consideration
19 of any such joint resolution after it has been re-
20 ported by the appropriate committee shall be treated
21 as highly privileged in the House of Representatives.

22 “(h) DEFINITIONS.—As used in this section—

23 “(1) the term ‘legal and law enforcement meas-
24 ures’ means—

1 “(A) the enactment and implementation of
2 laws and regulations or the implementation of
3 existing laws and regulations to provide for the
4 progressive prosecution and gradual elimination
5 of organized criminal groups; and

6 “(B) the effective organization, staffing,
7 equipping, funding, and activation of those gov-
8 ernmental authorities responsible for organized
9 crime control;

10 “(2) the term ‘major organized crime source
11 country’ is a country in which organized criminal
12 groups with operations significantly affecting the
13 United States are located or have a significant pres-
14 ence; and

15 “(3) the term ‘United States assistance’ means
16 assistance of any kind which is provided by grant,
17 sale, loan, lease, credit, guaranty, or insurance, or
18 by any other means, by any agency or instrumental-
19 ity of the United States Government to any foreign
20 country, including—

21 “(A) assistance under this Act (including
22 programs under title IV of chapter 2 of this
23 part);

24 “(B) sales, credits, and guaranties under
25 the Arms Export Control Act;

1 “(C) sales under title I or III and dona-
2 tions under title II of the Agricultural Trade
3 Development and Assistance Act of 1954 of
4 nonfood commodities;

5 “(D) other financing programs of the
6 Commodity Credit Corporation for export sales
7 of nonfood commodities; and

8 “(E) financing under the Export-Import
9 Bank Act of 1945,

10 except that the term ‘United States assistance’ does
11 not include (i) international narcotics control assist-
12 ance under this chapter, (ii) disaster relief assistance
13 (including any assistance under chapter 9 of this
14 part), (iii) assistance which involves the provision of
15 food or medicine, (iv) assistance for refugees, (v) as-
16 sistance under the Inter-American Foundation Act,
17 (vi) assistance from the Child Survival Fund under
18 section 104(c)(2) of this Act, (vii) assistance for
19 narcotics education and awareness activities under
20 section 126(b)(2) of this Act (but any such assist-
21 ance shall be subject to the prior notification proce-
22 dures applicable to reprogrammings pursuant to sec-
23 tion 634A of this Act), or (viii) activities authorized
24 pursuant to the National Security Act of 1947 (50
25 U.S.C. 410 et seq.), the Central Intelligence Agency

1 Act of 1949 (50 U.S.C. 403a et seq.), or Executive
2 Order No. 12333 (December 4, 1981).”.

3 **SEC. 3. EXTRADITION AND MUTUAL LEGAL ASSISTANCE**
4 **WITH RESPECT TO TAIWAN.**

5 Section 4(b) of the Taiwan Relations Act (22 U.S.C.
6 3303(b)) is amended by adding at the end the following
7 new paragraph:

8 “(9) Nothing in this Act may be construed in any
9 administrative or judicial proceeding as preventing the ne-
10 gotiation of, or entry into any agreement by, the American
11 Institute in Taiwan regarding extradition or mutual legal
12 assistance with respect to Taiwan.”.

13 **SEC. 4. DEATH PENALTY FOR KIDNAPPING.**

14 Section 1201(a) of title 18, United States Code, is
15 amended by adding at the end thereof the following: “Any
16 person who during the commission of, in furtherance of,
17 or while attempting to avoid apprehension for, a violation
18 of this subsection causes the death of another person shall
19 be punished by death or by imprisonment for life.”.

20 **SEC. 5. REPORT ON SUCCESS OF ROYAL HONG KONG PO-**
21 **LICE RECRUITMENT.**

22 Not later than 6 months after the date of enactment
23 of this Act, the Attorney General, in concert with the Di-
24 rector of the Federal Bureau of Investigation, the Admin-
25 istrator of the Drug Enforcement Agency, the Commis-

1 sioner of the Immigration and Naturalization Service, and
2 the Commissioner of the Customs Service, shall report to
3 Congress and the President on the efforts made, and the
4 success of such efforts, to recruit and hire former Royal
5 Hong Kong Police officers into Federal law enforcement
6 positions. This report shall discuss any legal or adminis-
7 trative barriers preventing a program of adequate recruit-
8 ment of former Royal Hong Kong Police officers.

9 **SEC. 6. REPORT ON SECRET SERVICE SUCCESS AGAINST**
10 **CREDIT CARD COUNTERFEITING.**

11 Not later than 6 months after the date of enactment
12 of this Act, the Secretary of the Treasury shall report to
13 Congress and the President on the success of Secret Serv-
14 ice efforts to combat credit card counterfeiting with ties
15 to the United States region. This report shall detail the
16 number of related warrants executed, arrests made, indict-
17 ments obtained, property seized, successful prosecutions,
18 and the trend and volume of reported counterfeit activity.

19 **SEC. 7. LEGAL CARD CLUB CURRENCY TRANSACTION RE-**
20 **PORTS.**

21 Section 5312(a)(2) of title 31, United States Code,
22 is amended—

23 (1) by striking “or” after the semicolon in sub-
24 paragraph (X);

1 (2) by redesignating subparagraph (Y) as sub-
2 paragraph (Z); and

3 (3) by inserting after subparagraph (X) the
4 following:

5 “(Y) any legal gaming club where legal gam-
6 bling is conducted involving a card game played for
7 currency, check, credit, or any other thing of value
8 which is not prohibited and made unlawful under
9 Federal, State, or local law, except for a legal gam-
10 ing club already required to file currency transaction
11 reports under existing State laws; or”.

12 **SEC. 8. REPORTS ON TASK FORCES FOCUSED ON ASIAN OR-**
13 **GANIZED CRIME.**

14 (a) ATTORNEY GENERAL.—Not later than 6 months
15 after the date of enactment of this Act, the Attorney Gen-
16 eral shall report to the Congress and the President on the
17 progress of efforts to create task forces dedicated to Asian
18 organized crime.

19 (b) ATTORNEY GENERAL AND IMMIGRATION AND
20 NATURALIZATION SERVICE.—Not later than 6 months
21 after the date of enactment of this Act, the Attorney Gen-
22 eral and the Commissioner of the Immigration and Natu-
23 ralization Service to report to the Congress and the Presi-
24 dent on—

1 (1) the status of Immigration and Naturaliza-
2 tion Service participation in all new and existing
3 task forces dedicated to organized crime; and

4 (2) the status of proposed Immigration and
5 Naturalization Service Asian Crime Task Forces.

6 **SEC. 9. INCREASED PENALTY FOR VISA FRAUD.**

7 (a) FALSE STATEMENT.—Section 1542 of title 18,
8 United States Code, is amended by striking “fined not
9 more than \$2,000 or imprisoned not more than five years,
10 or both” and inserting “fined under this title or impris-
11 oned not more than 10 years, or both”.

12 (b) FORGERY.—Section 1543 of title 18, United
13 States Code, is amended by striking “fined not more than
14 \$2,000 or imprisoned not more than five years, or both”
15 and inserting “fined under this title or imprisoned not
16 more than 10 years, or both”.

17 (c) MISUSE OF PASSPORT.—Section 1544 of title 18,
18 United States Code, is amended by striking “fined not
19 more than \$2,000 or imprisoned not more than five years,
20 or both” and inserting “fined under this title or impris-
21 oned not more than 10 years, or both”.

22 (d) SAFE CONDUCT VIOLATION.—Section 1545 of
23 title 18, United States Code, is amended by striking
24 “fined not more than \$2,000 or imprisoned not more than

1 three years, or both” and inserting “fined under this title
2 or imprisoned not more than 10 years, or both”.

3 (e) FRAUD AND MISUSE OF VISAS.—Section 1546(a)
4 of title 18, United States Code, is amended by striking
5 “fined not more than \$2,000 or imprisoned not more than
6 five years, or both” and inserting “fined under this title
7 or imprisoned not more than 10 years, or both”.

8 **SEC. 10. INTERNATIONAL CARRIERS’ RESPONSIBILITY.**

9 (a) IN GENERAL.—Section 273 of the Immigration
10 and Nationality Act (8 U.S.C. 1323) is amended—

11 (1) in subsection (a), by striking “(other than
12 from foreign contiguous territory)”;

13 (2) by redesignating subsections (c) and (d) as
14 subsections (e) and (f), respectively;

15 (3) by inserting after subsection (b) the
16 following:

17 “(c) RECORDS.—The Attorney General shall main-
18 tain a record of each undocumented alien arriving on or
19 after the date of enactment of this subsection at a United
20 States port of entry and of the carrier which brought such
21 alien to that port of entry.”;

22 (4) by inserting after subsection (c) (as added
23 by paragraph (4)), the following:

24 “(d) REPEAT OFFENSES.—(1) If the Attorney Gen-
25 eral determines that, during the preceding calendar year,

1 any carrier has delivered an average of more than 0.5 un-
2 documented aliens per arrival at United States ports of
3 entry then, for the next calendar year, in lieu of the pen-
4 alty of \$3,000 specified in subsection (b), such carrier
5 shall pay to the Commissioner a penalty of \$15,000 for
6 each alien brought in violation of subsection (a).

7 “(2) If the Attorney General determines that, during
8 the preceding calendar year, any carrier has delivered an
9 average of more than 1.5 undocumented aliens per arrival
10 at United States ports of entry, then, for the next calendar
11 year, in lieu of the penalties specified in subsection (b)
12 and in paragraph (1) of this subsection, such carrier shall
13 pay to the Commissioner a penalty of \$30,000 for each
14 alien brought in violation of subsection (a).

15 “(3) If the Attorney General determines that, in the
16 preceding calendar year, any carrier has delivered an aver-
17 age of more than 2 undocumented aliens per arrival at
18 United States ports of entry, then such carrier shall forfeit
19 all landing rights in the United States for the next cal-
20 endar year.”; and

21 (5) subsection (e) (as redesignated) is amend-
22 ed—

23 (A) by inserting after “refunded,” the fol-
24 lowing: “unless the alien transported is granted

1 political asylum status in the United States or”;
2 and

3 (B) by inserting before the period at the
4 end thereof “or that the visa or other immigra-
5 tion documentation presented to the carrier was
6 forged, counterfeit, altered, falsely made, stolen,
7 or inapplicable to the alien presenting the docu-
8 ment.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a)(4) shall take effect on January 1 of the sec-
11 ond calendar year following the date of enactment of this
12 Act.

13 **SEC. 11. INCREASED PENALTIES FOR ALIEN SMUGGLING.**

14 Pursuant to section 994 of title 28, United States
15 Code, the United States Sentencing Commission shall pro-
16 mulgate guidelines, or amend existing guidelines, to pro-
17 vide that a defendant convicted of violating, or conspiring
18 to violate section 1324(a) of title 8, United States Code,
19 shall be assigned not less than offense level 25 under sec-
20 tion 2L1.1 of the United States Sentencing Guidelines if
21 any of the following factors exist—

22 (1) if the offense involved five or more aliens in
23 a single scheme or otherwise;

24 (2) if the offense involved other criminal activ-
25 ity including, but not limited to, violations of the

1 Controlled Substances Act, prostitution, importation
2 of aliens for immoral purposes, trafficking in fire-
3 arms, money laundering, illegal gang activities, kid-
4 napping or ransom demands, fraudulent documents,
5 or extortion;

6 (3) if the offense involves smuggling of persons
7 under the age of 18 years for purposes of illegal
8 adoption, or sexual or commercial exploitation;

9 (4) if the offense involves the smuggling of
10 known or suspected terrorists or persons involved in
11 organized crime;

12 (5) if the offense involves dangerous or inhu-
13 mane treatment of the persons smuggled; and

14 (6) if death or serious bodily harm occurs to
15 persons smuggled, increase by 3.

16 Otherwise, the base offense level shall be 13, except for
17 an offense as described in section 1324(a)(2)(A) of title
18 8, United States Code.

19 **SEC. 12. REPORT ON BETTER UTILIZATION OF THE FED-**
20 **ERAL BUREAU OF INVESTIGATION'S OVER-**
21 **SEAS OPERATIONS AGAINST INTERNATIONAL**
22 **ORGANIZED CRIME.**

23 Not later than 6 months after the date of enactment
24 of this Act, the Attorney General, in consultation with the
25 Director of the Federal Bureau of Investigation, shall re-

1 port to the Congress on how the organized crime expertise
2 of the Federal Bureau of Investigation and its overseas
3 operations can be better utilized against international or-
4 ganized crime.

5 **SEC. 13. SENSE OF THE SENATE REGARDING THE ROLE OF**
6 **THE UNITED NATIONS IN INTERNATIONAL**
7 **ORGANIZED CRIME CONTROL.**

8 (a) FINDINGS.—The Senate finds that—

9 (1) international criminal activity has increased
10 dramatically over the past decade, and has been fa-
11 cilitated by modern developments in transportation
12 and communications, relaxed travel restrictions, and
13 the greatly increased volume of international trade;

14 (2) the expansion of international criminal ac-
15 tivity is reflected in the growth of requests for mu-
16 tual legal assistance and extradition made by the
17 United States to other countries and vice-versa,
18 which increased from 535 in 1984 to 2,238 in 1992;

19 (3) the global reach of organized crime con-
20 stitutes a serious threat to the security and stability
21 of sovereign nations;

22 (4) the expanding scope of international orga-
23 nized crime necessitates greater cooperation among
24 nations to prosecute and eliminate organized crimi-
25 nal groups;

1 (5) there is an urgent need for new approaches
2 designed to allow the international law enforcement
3 community to pursue international criminals across
4 national boundaries;

5 (6) the United Nations Convention against Il-
6 licit Traffic in Narcotic Drugs and Psychotropic
7 Substances has helped bring about improved inter-
8 national cooperation with respect to narcotics;

9 (7) the current role of the United Nations with
10 respect to international organized crime is limited by
11 the lack of a binding international convention deal-
12 ing with the broad range of organized criminal activ-
13 ity beyond narcotics;

14 (8) the United Nations Commission on Crime
15 Prevention and Criminal Justice has successfully fa-
16 cilitated the negotiation and implementation of mu-
17 tual legal assistance and extradition treaties between
18 certain nations, and has helped train nations to ef-
19 fectively execute the terms of such treaties; and

20 (9) the United Nations Commission on Crime
21 Prevention and Criminal Justice currently has lim-
22 ited authority and resources.

23 (b) SENSE OF THE SENATE.—It is the sense of the
24 Senate that—

1 (1) the United States should encourage the de-
2 velopment of a United Nations Convention on Orga-
3 nized Crime; and

4 (2) the United Nations should provide signifi-
5 cant additional resources to the Commission on
6 Crime Prevention and Criminal Justice, consider an
7 expansion of the Commission's role and authority,
8 and seek a cohesive approach to the international or-
9 ganized crime problem.

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